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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,030	06/01/2001	Michael Vitale	1504-0068	1872

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EXAMINER
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LAYE, JADE O

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,030

Applicant(s)

VITALE ET AL.

Examiner

Jade O. Laye

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Response to Amendment*

1. Applicant's amendments, dated 10/6/05, have been entered and made of record.

### *Response to Arguments*

2. Applicant's arguments, dated 10/6/05, with respect to all claims have been considered but are moot in view of the new ground(s) of rejection which was necessitated by Applicant's amended claims. Accordingly, **THIS ACTION IS MADE FINAL**.

3. Due to Applicant's amended Drawings, the objection applied in the previous Non-Final action is hereby withdrawn.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 13, 14, 20-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Severt et al* (US Pat. No. 5,432,705) in view of *Brodigan*. (US Pat. No. 6,289,381).

Claim 1 recites a method of performing work on a communications system in accordance with a work assignment, comprising limitations too numerous to recite herein. (Please refer to claim sheet). *Severt et al* disclose a system and method which identifies a data file associated

with a work assignment (i.e., trouble ticket) and equipment location, prepares test parameters based upon said location and ticket information, communicates said test parameters to a test device (can be pre-stored or downloaded from a central server), and employs said test device to perform various tests based upon defined test parameters. (Abstract; Col. 2, Ln. 27-Col. 3, Ln. 35; Col. 4, Ln. 26-42). *Severt et al* go on to disclose transmission of customer names and other customer info, but, fail to specifically disclose identifying the data file in connection with “channel configuration information.” However, within the same field of endeavor, *Brodigan* discloses a similar testing system, which transmits a profile (i.e., data file) containing subscriber and channel configuration information to a remote device. (Abstract; Col. 1, Ln. 60-Col 2, Ln. 47; Col. 5, Ln. 10-56). Accordingly, it would have been obvious at the time of Applicant’s invention to one of ordinary skill in this art to combine the systems of *Severt* and *Brodigan* in order to provide a more detailed work order assignment, thereby facilitating a more efficient field visit.

Applicant argues the application of *Severt* is incorrect because it is directed to remote testing of telephony systems and, therefore, is not analogous. (Applicant’s Response, Pg. 12). However, the Examiner disagrees for two reasons. First, Applicant’s claim language is directed to a “communications” system, which could encompass any number of networks including telephony, cable, or cellular systems. Secondly, even if Applicant’s claims were more narrowly tailored to cable systems, *Severt* is still analogous because it is directed to remote testing in communications systems—just as the present application. Accordingly, the application of *Severt* is proper.

*[Note: Moreover, at the time of Applicant's invention, remote testing in cable networks was notoriously well-known in this art as evidenced by Chang et al, US Pat. No. 6,891,803 and Budinger et al, US Pat. No. 6,802,032—both of which are directed to remote testing of cable networks.]*

Claims 13, 14, and 20-22 correspond to and/or are encompassed within the limitations of claim 1. Thus, each is analyzed and rejected as previously discussed.

Claim 2 recites the method of claim 1, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 1, and *Brodigan* further teaches the transmission of a profile containing the particular channels that the end user subscribes too (which encompasses optional program services). (Col. 5, Ln. 15-19). Accordingly, the combined systems of *Severt* and *Brodigan* disclose all limitations of Claim 2.

Claim 15 corresponds to the method claim 2. Thus, it is analyzed and rejected as previously discussed.

Claim 24 recites the method of claim 22, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 22, and *Severt* further teaches that, at the time applicant's invention, it was well known in the art to correlate work orders with location information and to transmit this information to hand held devices. (Col. 1, Ln. 11-39). Based upon this disclosure, it would have been obvious (if not inherent) for a field technician to enter a work order number and receive the location of the customer. Therefore, the modified system of *Severt* and *Brodigan* discloses the limitation of claim 24.

5. Claims 3-10, 14, 16-19 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Severt et al* in view of *Brodigan* as under Claim 1, and further in view of *Wichelman et al.* (US Pat. No. 6,853,932).

Claim 3 recites the method of claim 1, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 1, but fail to specifically teach the limitation of claim 3 (however, one could make the argument it does). However, within the same field of endeavor, *Wichelman et al* disclose a similar system wherein test parameters specify which channel frequencies are to be tested. (Abstract; Col. 2, Ln. 29-Col. 3, Ln. 2 & Ln. 15-25). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of Applicant's invention to combine the system of *Severt*, *Brodigan*, and *Wichelman* in order to provide a remote system for testing individual channels.

Claims 16, 25, and 26 correspond to the method claim 3. Thus, each is analyzed and rejected as previously discussed.

Claims 4 and 5 recite the method of claims 3 and 1, respectively, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined system of *Severt*, *Brodigan*, and *Wichelman* discloses all limitations of claims 3 and 1, and *Wichelman* further teaches the use of a pass/fail parameter (i.e., threshold limits). (Col. 13, Ln. 48-Col. 14, Ln. 3). Accordingly, the combined teachings of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claims 4 and 5.

Claim 17 corresponds to the method claim 4. Thus, it is analyzed and rejected as previously discussed.

Claims 6 and 7 recite the method of claim 3, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claim 3, and *Wichelman* further teaches identification of channel frequencies to be tested. (Col. 2, Ln. 49-Col. 3, Ln. 1-6). Accordingly, the combined teachings of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claims 6 and 7.

Claim 18 corresponds to the method claim 6, while claims 19 and 26 correspond to the method claim 7. Thus, each is analyzed and rejected as previously discussed.

Claims 8 and 9 recite the method of claim 7, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claim 7, and *Wichelman* further teaches testing analog and digital parameters. (Col. 11, Ln. 55-Col. 12, Ln. 12.). Accordingly, the combined teachings of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claims 8 and 9.

Claim 10 recites the method of claim 1, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 1, but fail to teach the limitation of claim 10. However, *Wichelman* further teaches the utilization of forward and return paths via the use of modems. (Col. 1, Ln. 52-56). Moreover, at the time of applicant's invention, the use of cable

modems was well known in telecommunications networks. Accordingly, the combined teachings of *Severt*, *Brodigan*, and *Wichelman* disclose all limitations of claim 10.

Claim 27 corresponds to the method claim 10. Thus, it is analyzed and rejected as previously discussed.

6. Claims 11, 12, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Severt et al* in view of *Heins et al*. (US Pat. No. 5,528,660).

Claims 11 and 12 recite the method of claim 1, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 1, but fail to teach the limitations of claims 11 and 12. However, within the same field of endeavor, *Heins* discloses a similar system wherein test parameters are transmitted via a wireless communication medium. (Abstract & Fig. 1). The fact that *Heins*' system may convert the data before transmitting it is irrelevant. Moreover, as evidenced by *Ellis et al*, US Pat. Pub. No. 2005/0028208 Par. [0094] and Fig. 1, it was well known at the time of Applicant's invention to utilize the internet for bi-directional communications between base stations and remote devices. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Severt*, *Brodigan*, and *Heins* in order to provide a remote testing via the use of an alternate communications protocol.

Claims 28 and 29 corresponds to the method claims 12 and 11, respectively. Thus, each is analyzed and rejected as previously discussed.



7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Severt et al* in view of *Brodigan* as under Claim 22, and further in view of *Thibadeau et al.* (US Pat. No. 5,432,542).

Claim 23 recites the method of claim 22, further comprising limitations which will not be recited herein. (please refer to claim sheet). As discussed above, the combined systems of *Severt* and *Brodigan* disclose all limitations of claim 22, but fail to teach the limitations of claim 23. However, within the same field of endeavor, *Thibadeau et al* disclose a cable television system which generates a location identifier based upon GPS coordinates. (Col. 14, Ln. 42-60). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Severt*, *Brodigan*, and *Thibadeau* in order to provide a system which could identify the location of unstationary network components.

Applicant argues that *Thibadeau* is incorrectly applied because it does not "teach or suggest the generation of location information with a test meter." (Applicant's Response, Pg. 12). The Examiner agrees in part. *Thibadeau* does not teach or suggest the generation of location information with a test meter, which is why the Examiner applied a 103 rejection. However, *Thibadeau* does show it was well-known in this art at the time of Applicant's invention to utilize the integration of GPS technology in cable communication networks—just as applicant's invention. Accordingly, *Thibadeau* was correctly applied.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *Chang et al* (US Pat. No. 6,891,803) disclose a hand held testing device used in cable systems.
- b. *Emsley et al* (US Pat. Pub. No. 2002/0019983) discloses a hand held testing device used in cable systems. (Note: relevant portions of Emsley's disclosure has priority back to 2/29/00).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
November 10, 2005.



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